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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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COMMISSIONERS:

JUN 26 2003

MARC SPITZER, Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF MATCH-MILLER
MIKE GLEASON

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

CM

In the matter of:

MUTUAL BENEFITS CORPORATION,

Respondent.

DOCKET NO. S-03464A-03-0000

**RESPONDENT'S SECOND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Rules of Practice before the Arizona Corporation Commission and Rule 34 of the Arizona Rules of Civil Procedure, Respondent Mutual Benefits Corporation (the "Respondent" or "MBC") requests that the documents or things designated in the attached list be produced for inspection and copying.

Except as provided otherwise in the attached list, the time and place of production are:

Time: Forty (40) calendar days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

Place: Roshka Heyman & DeWulf, One Arizona Center, 400 East Van Buren Street, Suite 800, Phoenix, Arizona 85004.

The attached list sets forth the items to be produced, either by individual item or by category; describes each item and category with reasonable particularity; and specifies the reasonable time, place and manner of making the production and performing the related acts in connection with each item.

The party upon whom this Request is served shall satisfy or object to it in writing within forty (40) days from the date of service of this Request unless this time frame is modified by the Administrative Law Judge.

The Response shall state, with respect to each item or category, that the documents will be

1 produced and related activities will be permitted as requested, unless the Request is objected to, in
2 which event the reasons for objection shall be stated.

3 The documents or things sought by this Request include documents, information and
4 things in the possession, custody or control of the Securities Division, their attorneys and all
5 present and former agents, servants, representatives, investigators and others who may have
6 obtained custody of the documents and things on behalf of the party or their attorneys.

7 Unless otherwise indicated, this Request covers the time frame of January 1, 1995 to the
8 present.
9

10 DEFINITIONS

11 For the purposes of this Request for Production of Documents, the following terms and
12 references have been abbreviated and defined as follows:

13 1. The terms "and" and "or" shall be construed conjunctively or disjunctively,
14 whichever makes the document request more inclusive.

15 2. The terms "Securities Division," "you" and "your" shall mean the Securities
16 Division of the Arizona Corporation Commission.

17 3. The term "Respondent" shall mean Mutual Benefits Corporation.

18 4. The term "Notice" is intended to include the Notice of Opportunity for Hearing for
19 Docket No. S-03465A-02-0000.
20

21 5. The terms "document" or "documents" include, without limiting their generality,
22 all contracts, agreements, correspondence, letters, files, memoranda, messages, handwritten notes,
23 e-mail, inter- or intra-departmental or office or firm communications, telephone logs, telephone
24 messages, computer disks, hard drives, telegrams, newsletters or other publications, stock
25 certificates, stock options, promissory notes, appraisal reports, expressions of opinion as to value
26 or use of real or personal property, valuation estimates of any kind, financial data, *pro formas*,
27

estimates, financial projections, statements, credit and loan applications, accounting records and worksheets, financial statements, diaries, calendars, logs, desk diaries, appointment books, feasibility studies, recordings, notes of conversations, notes of meetings, notes of conferences, notes of investigations, notes of opinions, notes of interviews, written statements, recorded or taped interviews or statements, drafts of reports, preliminary reports, final reports, studies, forecasts, prospectuses, charts, graphs, maps, drawings or other representations or depictions, telephone records, motion picture film, audio or video tape recordings, facsimile copies, computer printouts, data card programs or other input or output of data processing systems, photographs (positive print, slides or negatives), microfilm or microfiche, or other data compilations from which information can be obtained or translated through detection devices into reasonably usable form, whether originals or copies, altered or unaltered, made by any means. The terms "document" and "documents" also include all copies which are, in any manner, not identical in content to the originals. Any comment or notation appearing on any document, and not a part of the original text, is to be considered a separate "document." Any draft, or any other preliminary form of any document, is also to be considered a separate "document."

6. The term "all documents" means every document, as defined above, known to you and every document which can be located or discovered by reasonably diligent efforts.

7. The terms "writing" or "written" are intended to include, but not necessarily be limited to, the following: handwriting, typewriting, printing, photographing and every other means of recording upon any tangible thing, any form of communication later reduced to a writing or confirmed by a letter.

8. The term "communication" means any oral, written, electronic, graphic, demonstrative, or other transfer of information, ideas, opinions or thoughts between two or more individuals or entities, regardless of the medium by which such communication occurred, and

1 shall include, without limitation, written contact by such means as letters, memoranda, telegrams,
2 telex, or any documents, and oral contact by such means as face to face meetings and telephone
3 conversations.

4 9. The terms "concerns" or "concerning" include referring to, alluding to, responding
5 to, relating to, connected with, commenting on, impinging or impacting upon, in respect of, about,
6 regarding, discussing, showing, describing, affecting, mentioning, reflecting, analyzing,
7 constituting, evidencing or pertaining to.
8

9 10. The term "person(s)" shall mean any natural person, corporation, partnership, sole
10 proprietorship, joint venture, association, limited liability company, governmental or other public
11 entity, or any other form of organization or legal entity, and all of their officials, directors,
12 officers, employees, representatives, attorneys and agents.

13 11. The terms "meeting" and "meetings" mean any coincidence of presence of two or
14 more persons between or among whom some communication occurs, whether or not such
15 coincidence of presence was by chance or prearranged, formal or informal, or in connection with
16 some other activity.
17

18 INSTRUCTIONS FOR USE

19 A. In producing documents and things, indicate the particular request to which a
20 produced document or thing is responsive.

21 B. In producing documents and things, furnish all documents or things known or
22 available to you, regardless of whether such documents or things are possessed directly by you or
23 your directors, officers, agents, employees, representatives and investigators or by your attorneys
24 or their agents, employees, representatives or investigators.
25

26 C. If any requested document or thing cannot be produced in full, produce each such
27 document to the extent possible, specifying each reason for your inability to produce the

remainder and stating whatever information, knowledge or belief you have concerning the unproduced portion and the expected dates on which full production can be completed.

D. If any documents or things requested were in existence but are no longer in existence, then so state, specifying for each document or thing:

- (1) The type of document or thing;
- (2) The type(s) of information contained therein;
- (3) The date upon which it ceased to exist;
- (4) The circumstances under which it ceased to exist;
- (5) The identity of each person or persons having knowledge or who had knowledge of the contents thereof; and
- (6) The identity of each person or persons having knowledge of the circumstances under which each document or thing ceased to exist.

E. This Request for Production of Documents is deemed to be continuing. If, after producing documents and things, you obtain or become aware of any further documents, things or information responsive to this Request for Production of Documents, you are required to produce to Respondent such additional documents and things, or provide Respondent with such additional information.

F. Documents attached to each other should not be separated.

G. In lieu of producing originals or copies thereof responsive to this Request, you may, at your option, submit legible photographic or other reproductions of such documents, provided that the originals or copies from which such reproductions were made are retained by you until the final disposition of this proceeding.

H. In the event that you seek to withhold any documents, things or information on the basis that it is properly subject to some limitation on discovery, you shall supply Respondent with a list of the documents and things for which limitation of discovery is claimed, indicating:

- (1) The name of each author, writer, sender or initiator of such document or thing, if any;
- (2) The name of each recipient, addressee or party for whom such document or thing was intended, if any;
- (3) The name of the person in custody or charge or possession of each such document;
- (4) The date of each such document, if any, or an estimate thereof and so indicated as an estimate;
- (5) The general subject matter as described in each such document, or, if no such description appears, then such other description sufficient to identify said document;
- (6) The name, business address and position of each person who has seen, or has access to or knowledge of, the contents or nature of any such document; and
- (7) The claimed grounds for limitation of discovery (e.g., "attorney-client privilege").

DOCUMENTS TO BE PRODUCED


1. A copy of the SEC order of disgorgement and penalties of \$950,000 against MBC referred to in the letter dated June 16, 2003, from Mark Sendrow to Paul J. Roshka Jr. (the "Letter"), a copy of which is attached as Exhibit "A."¹
2. All documents referring or relating to the order referred to in paragraph 1 above.
3. All documents upon which the Securities Division Staff, or others working under the Securities Division's direction and control, or in concert with it, relied in connection with making of one or more statements to the effect that the SEC had entered an order of disgorgement and penalties of \$950,000 against MBC as referenced in the Letter.

¹ On this date, counsel for MBC wrote to Mr. Sendrow requesting that the information sought by this Request (see Exhibit "B") be provided informally.

4. Documents sufficient to identify all persons whom the Securities Division, its investigators, agents or employees contacted and informed of the order, referred to in Exhibit "A," against MBC.
5. Documents sufficient to identify the Securities Division's investigators, agents and employees who made the contacts referred to in Paragraph No. 3 above.
6. All documents used or created by the Securities Division, its investigators, agents or employees, during interviews of or communications with the persons identified in paragraph 3 above, including but not limited to:
 - (i) all scripts or other outlines used in the questioning of such persons,
 - (ii) all notes taken during the course of the interviews or communications;
 - (iii) copies of all audio recordings made during the course of the interviews or communications; and
 - (iv) all documents relied on or referred to by the Securities Division, its investigators, agents or other employees during the course of the interviews or communications.

RESPECTFULLY SUBMITTED this 26th day of June, 2003.

ROSHKA HEYMAN & DeWULF, PLC

By 

Paul J. Roshka, Jr., Esq.
Alan S. Baskin, Esq.
James M. McGuire, Esq.
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
602-256-6100
602-256-6800 (facsimile)
Attorneys for Respondent
Mutual Benefits Corporation

ROSHKA HEYMAN & DEWULF, PLC
ONE ARIZONA CENTER
400 EAST VAN BUREN - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

1 ORIGINAL and thirteen copies of the foregoing
2 hand-delivered this 26th day of June, 2003 to:

3 Docket Control
4 Arizona Corporation Commission
5 1200 West Washington Street
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered
8 this 26th day of June, 2003 to:

9 W. Mark Sendrow, Esq.
10 Matthew J. Neubert, Esq.
11 Phillip A. Hofling, Esq.
12 Securities Division
13 Arizona Corporation Commission
14 1300 West Washington Street, 3rd Floor
15 Phoenix, Arizona 85007

16 Marc E. Stern
17 Administrative Law Judge
18 Hearing Division
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007

22 
23 mutual.acc/pld/2nd Req for Docs.doc

Exhibit A

COMMISSIONERS
MARC SPITZER - Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

JAMES G. JAYNE
INTERIM EXECUTIVE SECRETARY



MARK SENDROW
DIRECTOR

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007-2996
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: accsec@ccsd.cc.state.az.us

ARIZONA CORPORATION COMMISSION

June 16, 2003

Paul J. Roshka, Esq.
Roshka, Heyman & Dewulf, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, AZ

Re: In the Matter of Mutual Benefits Corporation ("MBC")
Docket No. S-03464A-03-0000

Dear Mr. Paul:

I am in receipt of your letter of June 12, 2003, in which you complain that the Securities Division continues to investigate agents who allegedly sold MBC viatical contracts in violation of the Arizona Securities Act. Based on second- or third-hand information, you assert that the Division has conducted its inquiries in an inappropriate manner.

I have spoken with Division staff regarding these assertions and find no basis for them. To the contrary, the Division has conducted its investigation with the utmost professionalism. The claims of misconduct are simply without merit. One example is the assertion that our staff improperly asked investors whether MBC's agents disclosed the fact that the Securities and Exchange Commission entered an order of disgorgement and penalties of \$950,000 against MBC. That certainly is a material fact that should have been disclosed. Finally, I note that the complaints upon which you base your letter are not from investors but from the persons who may be subject to the Division's investigation. The Division will continue to be diligent and thorough in carrying out its investor protection responsibilities. I would note that those responsibilities extend to the investors in this case, not those who had a hand in creating the problem and now have the audacity to complain about the investigation.

The Division has the legal authority to continue its investigation into individuals or entities who may have engaged in violations of the Securities Act of Arizona. The filing of an administrative proceeding against MBC has no effect on whether the Division can continue to investigate MBC and/or individuals who may have aided and abetted MBC's securities violations. Be advised we will continue our investigation.

In the meantime, I wish to remind you that your client has yet to respond fully and completely to a prior subpoena for records production. A final demand for production of records will be forthcoming.

1200 WEST WASHINGTON, PHOENIX, ARIZONA 85007 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701

www.cc.state.az.us

In closing to the Division will continue as always to conduct its affairs in a professional, responsible and respectful manner and your allegations are without merit.

Very truly yours,

A handwritten signature in cursive script that reads "Mark Sendrow". The signature is written in dark ink and is positioned above the printed name and title.

Mark Sendrow
Director of Securities

c. Phillip Hofling
Matthew Neubert

Exhibit B

ROSHKA HEYMAN & DEWULF

ROSHKA HEYMAN & DEWULF, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

June 26, 2003

VIA HAND DELIVERY

Mark Sendrow, Esq.
Director of Securities
Securities Division
Arizona Corporation Commission
1300 W. Washington Street, 3rd Floor
Phoenix, AZ 85007

Re: Docket No. S-03464A-03-0000
In the Matter of: Mutual Benefits Corporation ("MBC")

Dear Mark:

Your June 16, 2003 letter indicates your Staff has been asking purchasers "whether MBC's agents disclosed the fact that the Securities and Exchange Commission had entered an order of disgorgement and penalties of \$950,000 against MBC." This is precisely our concern.

MBC, and as its lawyers this firm, are interested in and disturbed by this statement. We are concerned that many purchasers and perhaps even others have been informed by your Staff that the SEC entered an order of disgorgement and penalties against MBC. Presumably, you have a list of those purchasers to whom your Staff imparted that information. We ask that you confirm with your Staff that they have a copy of the purported SEC order granting such relief. If the Staff does not, and I have not been able to find such an order in my review of sec.gov and the company is unaware of any such order naming it as a defendant or respondent, then the Securities Division clearly has the burden of demonstrating why it would slander MBC with false accusations and mislead the very people it seeks to solicit as potential witnesses in this case.

Mark, you have always been fair and I hold you in the highest regard. I know that you understand why our client complains about an investigation technique that appears to us to misinform people while seeking to enlist them in the process. I ask that you personally examine the evidence behind these assertions.

Please provide us with the list of the individuals (and their respective contact information) who have been informed that an order of disgorgement and penalty was entered against MBC. In addition, we request that the Securities Division identify the

ROSHKA HEYMAN & DEWULF

Mark Sendrow, Esq.

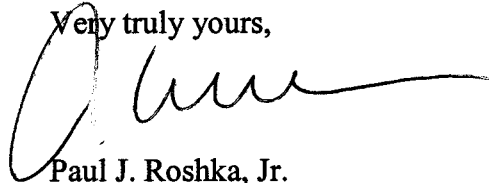
June 26, 2003

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evidence on which it bases this statement. We know you understand that to protect the company's rights, MBC is concurrently filing a formal document production request to learn how, by whom, to whom and how far such misinformation has been disseminated and the supposed due diligence of the individuals who have shared that misinformation with others.

We hope you will cause your Staff to promptly respond to our concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul J. Roshka, Jr.", written over the typed name.

Paul J. Roshka, Jr.
For the Firm

PJR:rab

cc: Daniel C. Goldman, Esq. (via U. S. mail)
Matthew J. Neubert, Esq. (via hand delivery)
Phillip A. Hofling, Esq. (via hand delivery)
Alan S. Baskin, Esq.
James M. McGuire, Esq.